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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/406,697	09/28/1999	SATOSHI ISHIGURO	35.C1387	1865

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EXAMINER	
SOBUTKA, PHILIP	

ART UNIT	PAPER NUMBER
2684	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/406,697	ISHIGURO ET AL.	
	Examiner	Art Unit	
	Philip J. Sobutka	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 August 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-6,8-12,14-18 and 20-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-6,8-12,14-18 and 20-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 September 1999* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8-23-2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 2,3,7-9,15,20, 21, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al (US 5,666,159) in view of Boudreaux et al (5,909,648).

Consider claims 3, and 21. Parulski teaches an intake means (fig 9, item 64) for taking in images from an image pickup device (fig 9, item 68); communication means for transmitting the images to a transmission destination (fig 9, item 66); and control means for stating an operation of the communication means in response to the image pickup operation of the image pickup device (fig 9, item 62, col 5, lines 1-5). Parulski lacks a teaching of the communication control breaking communications after a time period when the transmission of image data is completed. Boudreaux teaches a data transmission system in which a communication link is broken a predetermined time after data transmission is completed (Boudreaux see especially col 3, lines 20-60). It would have been obvious to one of ordinary skill in the art to modify Parulski to incorporate the break time as taught by Boudreaux in order to ensure that communication resources were not occupied unnecessarily.

As to claim 9, note that Parulski teaches a manipulative device ((capture switch fig 4, item 20) for starting the operation of the image pickup and hence the communication device.

Consider claim 15. Parulski in view of Boudreaux teaches everything claimed as shown above except for the method being stored on a computer readable media. Official notice is taken that it is notoriously well known in the art to store methods of

operation on computer readable media. It would have been obvious to one of ordinary skill in the art to modify Parulski to store the method on a computer readable media in order to allow the control method to be easily loaded onto another device.

As to claims 25-28, Note that Parulski teaches the transmission destination being selected by a user from among plural transmission destination displayed on a display screen (Parulski see especially fig 6).

As to claims 2,8,14,20, note that Parulski's transmission is via radio (see fig 9).

2. Claims 4-6,10-12,16-18, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski in view of Boudreaux and in view of Hull et al (5,806,005).

As to claims 4-6, 10-12, and 22-24, Parulski in view of Boudreaux as applied to claims 1, 7 and 19 respectively, teaches everything claimed except a teaching of detecting the state of the communication and storing the image data if the state is incommunicative and transmitting when the communication is active. Hull teaches an image transfer system with a detection function that determines the sate of the communication link and stores the data until the link is available when it is then transferred (Hull col 2, lines 38-62). It would have been obvious to one of ordinary skill in the art to modify Parulski in view of Boudreaux to use the detection and storage function of Hull in order to ensure that data was not lost via a faulty communication link.

As to claims 16-18, Parulski in view of Boudreaux as applied to claim 13 teaches everything claimed except a teaching of detecting the state of the communication and storing the image data if the state is incommunicative and transmitting when the communication is active. Hull teaches an image transfer system with a detection

function that determines the sate of the communication link and stores the data until the link is available when it is then transferred (Hull col 2, lines 38-62). It would have been obvious to one of ordinary skill in the art to modify Parulski in view of Boudreaux to use the detection and storage function of Hull in order to ensure that data was not lost via a faulty communication link.

Response to Arguments

3. Applicant's arguments filed August 26,2004 have been fully considered but they are not persuasive.

4. In response to applicant's argument that Boudreaux is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Boudreaux is clearly in the field of wireless data transmission.

5. Applicant argues that because Boudreaux would break communication after differing time periods that the claims would distinguish. Note however that the claimed "lapse of a given time" does not specify a single predetermined time period. Therefore, the claims do not distinguish over the prior art.

6. Applicant also argues that Boudreaux differs in requiring a timer, however it is not clear how the claimed "lapse of a given time" could be determined without the use of a timer.

Conclusion

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip Sobutka
(703) 305-4825

January 8, 2005

NAY MAUNG
SUPERVISORY PATENT EXAMINER